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BOOK REVIEWS.

A SELECTION OF CASES ON THE CONFLICT OF LAWS. By Joseph Henry Beale, Jr., Cambridge: The Harvard Law Review Publishing Association. 1900-1902. 3 vols., pp. vii, 496 ; xv, 548 ; xviii, 548.

Great credit is due to the editor and also to the publishers of these volumes, which contain a collection of cases on a subject to which little attention has been paid in our law schools. The matter has been well prepared, and the presswork is altogether commendable. The editor observes that the arrangement of topics may be open to logical objections, but that there seem to be sufficient practical reasons for the order adopted. The first part of the collection relates to jurisdiction, and deals in the first instance with the subject of law, including the extent of legislative power, the origin and change of law, concurrent legislative jurisdiction, the nature of foreign law, and comity. The next topic is that of jurisdiction over persons and things, as founded on domicile or situation. While this arrangement may reverse the usual order of topics, it may be supported by arguments of convenience and does not seem to be open to serious adverse comment.

To those familiar with the subject of the present volumes, it is superfluous to remark upon the diversity of opinion that prevails as to the origin of the doctrines which are discussed under the title of the conflict of laws. This diversity of opinion is perhaps somewhat reflected in the statement in the preface that those doctrines "all form part of the common law of England, and have been adopted as such in the States of the American Union," but that "they are law with us, not because they arose in international comity and usage, or in municipal practice, but because they are acted upon by our courts." We are not sure that we correctly apprehend the result of the statements which we have thus contrasted. If the doctrines in question constitute a part of the law of our States, as derived from the common law of England, they would seem to constitute a part of what may be called American common law ; and, if so, it would seem to follow that they are acted upon in the courts because they constitute a part of our law, instead of being a part of our law because they are acted upon in the courts. We seem thus to be reasoning in a circle, but it may at least be said that it is a very old one.

The cases found in the present collection consist chiefly of decisions of English and American courts ; but they also comprise decisions of British colonial courts and a number of what are called "foreign cases," decided by the courts of other countries. With regard to decisions reported in what is termed "the French form," it is stated that the editor, besides translating the decision, has changed the original so as to "throw the judgment into the form of an opinion ;" and that this has been done for the reason that "the report as published does not ordinarily contain the opinion of the court, but

merely the judgment, which, however, includes a full but formal recital of the facts and reasons on which the judgment is based." The statement thus quoted might, we think, give rise to an unintended, but erroneous impression. In the French reporting there is, we believe, practically no such thing as an "opinion" of the court, as distinguished from the "judgment." We are also quite prepared to add that we consider the absence of such a distinction to be most fortunate. A judgment in the French form in reality furnishes the scientific ideal of what an opinion of a court should be, since it presents in orderly procession the facts, the reasons and the decree all in one consolidated document.

Many of the cases in the present collection are accompanied with notes. The editor states in this relation that the cases thus cited by him by no means exhaust the authorities. This is necessarily so; but the citations, as we find them, are judiciously made and accomplish the editor's design of showing the actual state of authority on the particular questions involved.

Any review of the editor's work would be incomplete that omitted to notice his "Summary of the Conflict of Laws" at the end of the third volume. This summary, which occupies forty-five pages, presents a convenient and useful survey of the rules laid down in the numerous cases that precede it.

A TREATISE ON THE LAW OF AGENCY. By George L. Reinhard. Indianapolis: The Bowen-Merrill Co., 1902.

This is the latest treatise on the subject of agency, a topic which has heretofore been too much neglected by the writers of text-books. It is a very readable book, and contains a lucid and succinct statement of the substance of the numerous authorities cited in it. The author avows his purpose to be accurate, rather than original. In respect to avoiding originality he has been completely successful, and the result is that the book is better adapted for the uses of the practitioner than the student. It follows substantially the lines and classifications of Mechem's work, published in 1889, but it is more compact and readable, and a very much more handy volume, being about three-fourths of the size of the earlier work; and, of course, it has an advantage in being thirteen years younger, although we cannot agree with the suggestion of the author that the Law of Agency is undergoing more rapid development and modification than any other branch of the substantive law. True to his purpose of avoiding originality, the author has not undertaken to throw any new light on the subjects of Undisclosed Principal or Ratification, the topics which involve, more than others, what is peculiar to the Law of Agency. The case of *Watteau v. Fenwick*,¹ involving an entirely new doctrine in the law of Undisclosed Principal, is cited in connection with *Higgins v. Senior*, with which it has nothing to do. The recent and important case of *Keighley v. Durant*,² involving a most interesting question in the law of ratification, is not referred to at all, nor is there any discussion of the question itself.

The author states that his desire to be accurate, rather than original, results from "his experience at the bar, on the bench and in the

¹ [1893] 1 Q. B. 346. ² [1901] A. C., 240.